

**UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF MICHIGAN - NORTHERN DIVISION**

In the Matter of:

LAFOND, MATTHEW

Debtor(s)

Case No. 19-21796
Chapter 7
Honorable DANIEL S. OPPERMAN

**MOTION FOR APPROVAL OF SETTLEMENT
REGARDING DISPUTE IN A 2015 STARCRAFT 176 STARFISH**

NOW COMES the Chapter 7 Trustee, Daniel C. Himmelsbach, by and through his attorney, Daniel C. Himmelsbach and for his Motion states as follows:

1. The Debtor(s) Matthew LaFond ("Debtor(s)") filed a voluntary Chapter 7 bankruptcy petition on September 12, 2019.
2. Daniel C. Himmelsbach ("Trustee") is the acting Chapter 7 Trustee in this case.
3. The Trustee and System & Service Technologies, Inc., as servicer for Medallion Bank ("Bank") have entered into an Agreement to Settle a dispute over the Bank's security interest in a 2015 Starcraft 176 Starfish (VIN STR37389K415). (Stipulation attached)
4. Under that Agreement, the Estate will receive the sum of \$4,000.00 from the Bank.
5. The Trustee believes that the \$4,000.00 Settlement Payment is fair and reasonable compensation to the bankruptcy estate.
6. Federal Rule of Bankruptcy Procedure 9019(a) grants this Court authority to approve the Settlement Agreement upon Motion by the Trustee and Notice and a Hearing.
7. Federal Rule of Bankruptcy Procedure 9019 offers no guidance as to the criteria to be used in evaluating whether a Settlement should be approved, but Courts "uniformly have drawn from the language of the Supreme Court's decision in *TMT Trailer Ferry* in establishing a "fair and equitable" threshold for Settlement approval. "*In re Anderson*, 377 B.R. 865, 870 (B.A.P. 6th Cir 2007); *Protective Committee for Indep. Stockholders of TMT Trailer Ferry v. Anderson*, 390 U.S. 414, 424 (1968) ("The requirements....that plans of reorganization be both "fair and equitable", apply to compromises just as to other aspects of reorganizations.")
8. In considering a proposed compromise, the Court is charged with an affirmative obligation to apprise itself of the underlying facts and to make an independent judgment as to whether the compromise is fair and equitable. *Reynolds v. Commissioner*, 861 F. 2d 469, 473 (6th Cir. 1988).
9. The Court must also weigh factors such as the probability of success on the merits, the complexity and expense of litigation, and the reasonable views of creditors. *Bauer v. Commerce Union Bank*, 859 F.2d 438, 441 (6th Cir. 1988).
10. Compromises expedite the administration of the case, reduce administrative costs, and are favored in bankruptcy. See *Protective Comm. Of Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968).

11. Courts in the Sixth Circuit have noted that “[s]ettlements in bankruptcy cases are favored by law.” *Buckeye Check Cashing, Inc. v. Meadows*, 396 B.R. 485, 499 (6th Cir. (BAP) 2008) (*citing In re Cormier*, 382 B.R. 377, 400-01 (Bankr. W.D. Michigan, 2008))
12. If the Trustee does not settle this issue, it is anticipated that the cost to litigate the issues may exceed the amount in controversy.
13. The Trustee believes that this Settlement is fair and reasonable and it should be approved by the Court.
14. The Trustee believes that the proposed Settlement is in the best interest of the bankruptcy estate.

WHEREFORE, your Trustee requests that this Court approve the Settlement as set forth above and in accordance with the proposed order attached hereto as **Exhibit “1”**.

Dated: February 6, 2020

/s/ DANIEL C. HIMMELSPACH
DANIEL C. HIMMELSPACH(P31950)
Chapter 7 Trustee
PO Box 5856
Saginaw, MI 48603
Tel: (989) 790-0400
trusteehimmelsbach@gmail.com

UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

In the Matter of:

LAFOND, MATTHEW

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Case No. 19-21796
Chapter 7
Honorable DANIEL S. OPPERMAN

**ORDER AUTHORIZING TRUSTEE'S MOTION FOR APPROVAL OF
SETTLEMENT REGARDING DISPUTE OVER 2015 STARCRAFT 176 STARFISH**

This matter having come before the Court upon Motion of the Chapter 7 Trustee, seeking authority to Settle a dispute over the security interest of Medallion Bank, and

The Court having reviewed the Motion and having determined that the same was properly noticed pursuant to Local Rule and there having been no objections to the proposed settlement, and further that the settlement is in the best interest of the Estate.

NOW THEREFORE:

IT IS HEREBY ORDERED that the Chapter 7 Trustee, DANIEL C. HIMMELSPACH, is authorized to settle the dispute over Medallion Bank's security interest in the 2015 Starcraft 176 Starfish as set forth in his Motion for the sum of **\$4,000.00**.

IT IS FURTHER ORDERED that Medallion Bank shall submit the payment of **\$4,000.00** within 10 days of the date of this Order.

IT IS FURTHER ORDERED that this Settlement terminates any interest of the bankruptcy estate in the boat in question, VIN STR37389K415.

“Exhibit 1”

**UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF MICHIGAN - NORTHERN DIVISION**

In the Matter of:

LAFOND, MATTHEW

Debtor(s)

Case No. 19-21796
Chapter 7
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**STIPULATION TO SETTLE DISPUTE REGARDING
SECURITY INTEREST OF MEDALLION BANK**

The Chapter 7 Trustee and Medallion Bank, by their respective counsel, stipulate as follows:

1. Trustee and Medallion Bank (through Systems & Services Technologies, Inc.) previously stipulated that the Bank did not have a security interest in a 2015 Starcraft 176 Starfish (VIN STR37389K415) at Docket 19, with an Order at Docket 20.
2. Notwithstanding, it appears there may be documentation supporting a security interest by the Bank.
3. To avoid further cost to the Bank and the estate, the Bank will pay the estate Four Thousand (\$4,000.00) Dollars for any interest the estate may have in the boat.
4. Payment will be made within ten (10) days of the entry of an appropriate Order.

WHEREFORE the Trustee and Medallion Bank request the Court to approve this Settlement.

Date: February 6, 2020

/s/ DANIEL C. HIMMELSPACH

Daniel C. Himmelsbach, (P31950)
Attorney for Chapter 7 Trustee
PO Box 5856
Saginaw, MI 48603
Tel: (989) 790-0400
attyhimmelsbach@gmail.com

Dated: February 5, 2020

/s/ MOLLY SLUTSKY SIMONS

Molly Slutsky Simons (OH 0083702)
Sottile & Barile, Attorneys at Law
Attorneys for Medallion Bank
394 Wards Corner Road, Ste. 180
Loveland, OH 45140
Tel: (513) 444-4100
bankruptcy@sottileandbarile.com

**UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF MICHIGAN - NORTHERN DIVISION**

In the Matter of:

LAFOND, MATTHEW

Debtor(s)

Case No. 19-21796

Chapter 7

Honorable DANIEL S. OPPERMAN

**NOTICE OF TRUSTEE'S MOTION FOR APPROVAL TO SETTLE DISPUTE OVER
2015 STARCRAFT 176 STARFISH**

CHAPTER 7 TRUSTEE, Daniel C. Himmelspach, has filed a Motion with the Court for Settlement regarding a dispute over Medallion Bank's security interest.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the court to grant relief sought in the Motion, or if you want the court to consider your views on the Motion, within Twenty-one (21) days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:

U.S. Bankruptcy Court
111 First Street,
Bay City, Michigan, 48708

If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

You must also mail a copy to:

Daniel C. Himmelspach
Attorney at Law
PO Box 5856
Saginaw, MI 48603

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection or may enter an order granting relief.

Dated: February 6, 2020

/s/ DANIEL C. HIMMELSPACH
DANIEL C. HIMMELSPACH(P31950)
Chapter 7 Trustee
PO Box 5856
Saginaw, MI 48603
Tel: (989) 790-0400
trusteehimmelsbach@gmail.com

(Response or answer must comply with F.R. Civ. P. 8(b), (c) and (e))

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CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2020, I forwarded a copy of the Motion for Approval of Settlement Regarding Dispute in 2015 Starcraft 176 Starfish and Notice, by first class mail to all entities on the attached matrix.

Dated: February 6, 2020

/s/ KIMBERLY A. HOSPODAR

KIMBERLY A. HOSPODAR (P31950)
Chapter 7 Trustee Assistant
PO Box 5856
Saginaw, MI 48603
Telephone: (989) 790-0400
trusteehimmelspach@gmail.com

Label Matrix for local noticing
0645-1
Case 19-21796-dob
Eastern District of Michigan
Bay City
Wed Feb 5 13:37:16 EST 2020

Allianceone Recvbles M
4850 E Street Rd Ste 300
Trevose, PA 19053-6643

ELGA Credit Union
c/o Chadd A. O'Brien-General Counsel
2305 S. Center Road
Burton, MI 48519-1147

74th District Court
1230 Washington Ave
Bay City, MI 48708-5737

Attorney General
Law Building
525 Ottawa
Lansing, MI 48913-0001

Capital One Bank USA N
Po Box 30281
Salt Lake City, UT 84130-0281

Citibank/Indigo
PO Box 4499
Beaverton, OR 97076-4499

El Ga Credit Union
2303 S Center Rd
Burton, MI 48519-1147

(p) FIRST SAVINGS BANK
PO BOX 5096
SIOUX FALLS SD 57117-5096

(p) INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATIONS
PO BOX 7346
PHILADELPHIA PA 19101-7346

Lvnv Funding Llc
C/o Resurgent Capital Services
PO Box 10497
Greenville, SC 29603-0497

Merchants Credit Guide
223 W Jackson St
Chicago, IL 60606-6914

Merrick Bank Corp
Po Box 9201
Old Bethpage, NY 11804-9001

Michigan Department of Treasury
Collection Division/Bankruptcy Unit
P. O. Box 30168
Lansing, MI 48909-7668

Pyod Llc
C/o Resurgent Capital Services
PO Box 10497
Greenville, SC 29603-0497

Sst/medallion
4315 Pickett Rd
Saint Joseph, MO 64503-1600

Stenger & Stenger
2618 E Paris Ave SE
Grand Rapids, MI 49546-2458

U.S. Attorney
Attn: Civil Division (IRS)
101 First Street
Ste. 200
Bay City, MI 48708-5747

U.S. Trustee
211 West Fort Street
Ste. 700
Detroit, MI 48226-3263

Daniel Himmelsbach
P.O. Box 5856
Saginaw, MI 48603-0856

Kimberly A. Kramer
Kimberly Kramer, PLC
916 Washington Ave.
Suite 320
Bay City, MI 48708-5723

Matthew D LaFond
1212 1/2 W Jenny
Bay City, MI 48706-2954

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Fsb Blaze
5501 S Broadband Lane
Sioux Falls, SD 57108

IRS
PO BOX 330500
DETROIT, MI 48232

(d) Internal Revenue Service
PO Box 21126
Philadelphia, PA 19114-0326

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Systems & Services Technologies, Inc.

(u)Becki Wiedyk-LaFond

	End of Label Matrix
Mailable recipients	21
Bypassed recipients	2
Total	23